



DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-134]

Certain Metal Lockers and Parts Thereof from the People's Republic of China:

Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain metal lockers and parts thereof (metal lockers) from the People's Republic of China (China). The period of investigation is January 01, 2019 through December 31, 2019. Interested parties are invited to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Charles Doss or Alex Cipolla, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4474 or (202) 482-4956, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 9, 2020, Commerce received antidumping duty (AD) and countervailing duty (CVD) petitions¹ concerning imports of metal lockers from China, filed in proper form on behalf

¹ See Petitioners' Letter, "Petitions for the Imposition of Antidumping and Countervailing Duties Against Imports of Certain Metal Lockers and Parts Thereof from the People's Republic of China," dated July 9, 2020 (Petition).

of List Industries, Inc., Lyon LLC, Penco Products, Inc, and Tennsco LLC (collectively, the petitioners).² On August 5, 2020, Commerce published the notice of initiation of this CVD investigation of metal lockers from China.³ On September 21, 2020, Commerce postponed the preliminary determination of this investigation to December 7, 2020.⁴ For a complete description of the events that followed the initiation of this investigation, *see* the Preliminary Decision Memorandum.⁵ This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are metal lockers from China. For a complete description of the scope of this investigation, *see* Appendix I.

Scope Comments

In accordance with the preamble to Commerce's regulations,⁶ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁷ Certain

² On October 15, 2020, the petitioners notified Commerce that Lyon LLC was withdrawing as a petitioner in this investigation. On November 6, 2020, DeBourgh Manufacturing Co. was listed with List Industries, Inc., Penco Products, Inc., and Tennsco LLC as the petitioners in this investigation.

³ *See Certain Metal Lockers and Parts Thereof from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 85 FR 47353 (August 5, 2020) (*Initiation Notice*), and accompanying Initiation Checklist.

⁴ *See Certain Metal Lockers and Parts Thereof from the People's Republic of China: Postponement of Preliminary Determination of Countervailing Duty Investigation*, 85 FR 59287 (September 21, 2020).

⁵ *See* Memorandum, "Decision Memorandum for the Preliminary Determination of the Countervailing Duty Investigation of Certain Metal Lockers and Parts Thereof from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁶ *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁷ *See Initiation Notice*.

interested parties commented on the scope of the investigation as it appeared in the *Initiation Notice*. Commerce intends to issue its preliminary decision regarding comments concerning the scope of the AD and CVD investigations in the preliminary determination of the companion AD investigation, whose deadline is February 4, 2021.

Methodology

Commerce is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, Commerce preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an “authority” that gives rise to a benefit to the recipient, and that the subsidy is specific.⁸

Commerce notes that, in making these findings, it relied, in part, on facts available and because it finds that one or more respondents did not act to the best of their ability to respond to Commerce’s requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁹ For further information, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), Commerce is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of metal lockers from China based on a request made by the petitioners.¹⁰ Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than April 20, 2021, unless postponed.

⁸ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁹ See sections 776(a) and (b) of the Act.

¹⁰ See Petitioners’ Letter, “Certain Metal Lockers and Parts Thereof from the People’s Republic of China – Petitioners’ Request to Align Final Determinations,” dated November 30, 2020.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, Commerce shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

Commerce calculated an individual estimated countervailable subsidy rate for Zhejiang Xingyi Metal Products Co., Ltd. (Zhejiang Xingyi), the only individually examined exporter/producer in this investigation. Because the only individually calculated rate is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average rate calculated for Zhejiang Xingyi is the rate assigned to all other producers and exporters, pursuant to section 705(c)(5)(A)(i) of the Act.

Rate for Non-Responsive Companies

Eight potential producers and/or exporters of metal lockers from China did not respond to Commerce's Quantity and Value (Q&V) Questionnaire. We find that, by not responding to the Q&V Questionnaire within the deadline established by Commerce, these companies withheld requested information and significantly impeded this proceeding.¹¹ Thus, in reaching our preliminary determination, pursuant to sections 776(a)(2)(A) and (C) of the Act, we are basing the CVD rate for these eight companies on facts otherwise available.

We further preliminarily determine that an adverse inference is warranted, pursuant to section 776(b) of the Act. By failing to submit responses to Commerce's Q&V Questionnaire, the eight companies did not cooperate to the best of their ability in this investigation.

¹¹ These eight companies are Changshu Taron Machinery Equipment Manufacturing Co., Ltd.; Guangdong Yuhua Building Materials Co., Ltd.; Jiangsu Tongrun Tool Cabinet Co., Ltd.; Luoyang Mas Younger Office Furniture Co. / Louyang Mas Younger Export and Import Co.; Luoyang Shidiu Import and Export Co., Ltd.; Suzhou Yuanda Commercial Products Co. Ltd.; Winnsen Industry Co., Ltd.; and Xiamen Headleader Technology.

Accordingly, we preliminarily find that an adverse inference is warranted to ensure that the eight companies will not obtain a more favorable result than if they had fully complied with our request for information. For more information on the application of adverse facts available to the non-responsive companies, *see* “Use of Facts Otherwise Available and Adverse Inferences” in the Preliminary Determination Memorandum.

Preliminary Determination

Commerce preliminarily determines that the following estimated countervailable subsidy rates exist:

Company	Subsidy Rate
Zhejiang Xingyi Metal Products Co., Ltd.	36.83 percent
All Others	36.83 percent
Changshu Taron Machinery Equipment Manufacturing Co., Ltd.	144.01 percent
Guangdong Yuhua Building Materials Co., Ltd.	144.01 percent
Jiangsu Tongrun Tool Cabinet Co., Ltd.	144.01 percent
Luoyang Mas Younger Office Furniture Co. / Louyang Mas Younger Export and Import Co.	144.01 percent
Luoyang Shidiu Import and Export Co., Ltd.	144.01 percent
Suzhou Yuanda Commercial Products Co. Ltd.	144.01 percent
Winnsen Industry Co., Ltd.	144.01 percent
Xiamen Headleader Technology	144.01 percent

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, Commerce will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*. Further, pursuant to 19 CFR 351.205(d), Commerce will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

Commerce is currently unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. Accordingly, we intend to take additional steps in lieu of on-site verification. Commerce will notify interested parties of any additional documentation or information required.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Commerce will notify interested parties of the deadline for the submission of case briefs. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.¹² Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and

¹² See 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements); *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19*, 85 FR 17006 (March 26, 2020); and *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020) (*Temporary Rule*).

a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a date and time to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹³

International Trade Commission Notification

In accordance with section 703(f) of the Act, Commerce will notify the International Trade Commission (ITC) of its determination. If the final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after the final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: December 7, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

¹³ See *Temporary Rule*.

Appendix I

Scope of the Investigation

The scope of this investigation covers certain metal lockers, with or without doors, and parts thereof (certain metal lockers). The subject certain metal lockers are metal storage devices less than 27 inches wide and less than 27 inches deep, whether floor standing, installed onto a base or wall-mounted. In a multiple locker assembly (whether a welded locker unit, otherwise assembled locker unit or knocked down unit or kit), the width measurement shall be based on the width of an individual locker not the overall unit dimensions. All measurements in this scope are based on actual measurements. The subject certain metal lockers typically include the bodies (back, side, shelf, top and bottom panels), door frames with or without doors which can be integrated into the sides or made separately, and doors. The subject metal lockers typically are made of flat-rolled metal, metal mesh and/or expanded metal, which includes but is not limited to alloy or non-alloy steel (whether or not galvanized or otherwise metallurgically coated for corrosion resistance), stainless steel, or aluminum, but the doors may also include transparent polycarbonate, Plexiglas or similar transparent material or any combination thereof. Metal mesh refers to both wire mesh and expanded metal mesh. Wire mesh is a wire product in which the horizontal and transverse wires are welded at the cross-section in a grid pattern. Expanded metal mesh is made by slitting and stretching metal sheets to make a screen of diamond or other shaped openings. The doors are configured with or for a handle or other device that permit the use of a mechanical or electronic lock or locking mechanism, including, but not limited to: a combination lock, a padlock, a key lock, lever or knob lock, and a wireless lock. The subject locker may also enter with the lock or locking device included or installed. The doors or body panels may also include vents (including wire mesh or expanded metal mesh vents) or perforations. The bodies, body components and doors are typically powder coated, otherwise painted or epoxy coated or may be unpainted. The subject merchandise includes metal lockers imported either as welded or otherwise assembled units (ready for installation or use) or as knocked down units or kits (requiring assembly prior to installation or use).

The subject lockers may be shipped as individual or multiple locker units preassembled, welded, or combined into banks or tiers for ease of installation or as sets of component parts, bulk packed (*i.e.*, all backs in one package, crate, rack, carton or container and sides in another package, crate, rack, carton or container) or any combination thereof. The knocked down lockers are shipped unassembled requiring a supplier, contractor or end-user to assemble the individual lockers and locker banks prior to installation.

The scope also includes all parts and components of lockers made from flat-rolled metal or expanded metal (*e.g.*, doors, frames, shelves, tops, bottoms, backs, side panels, *etc.*) as well as accessories that are attached to the lockers when installed (including, but not limited to, slope tops, bases, expansion filler panels, dividers, recess trim, decorative end panels, and end caps) that may be imported together with lockers or other locker components or on their own. The particular accessories listed for illustrative purposes are defined as follows:

- a. Slope tops: Slope tops are slanted metal panels or units that fit on the tops of the lockers and that slope from back to front to prevent the accumulation of dust and debris on top of the locker and to discourage the use of the tops of lockers as storage areas. Slope tops come in various configurations including, but not limited to, unit slope tops (in place of flat tops), slope hoods made of a back, top and end pieces which fit over multiple units and convert flat tops to a sloping tops, and slope top kits that convert flat tops to sloping tops and include tops, backs and ends.

- b. Bases: Locker bases are panels made from flat-rolled metal that either conceal the legs of the locker unit, or for lockers without legs, provide a toe space in the front of the locker and conceal the flanges for floor anchoring.
- c. Expansion filler panel: Expansion filler panels or fillers are metal panels that attach to locker units to cover columns, pipes or other obstacles in a row of lockers or fill in gaps between the locker and the wall. Fillers may also include metal panels that are used on the sides or the top of the lockers to fill gaps.
- d. Dividers: Dividers are metal panels that divide the space within a locker unit into different storage areas.
- e. Recess trim: Recess trim is a narrow metal trim that bridges the gap between lockers and walls or soffits when lockers are recessed into a wall.
- f. Decorative end panels: End panels fit onto the exposed ends of locker units to cover holes, bolts, nuts, screws and other fasteners. They typically are painted to match the lockers.
- g. End caps: End caps fit onto the exposed ends of locker units to cover holes, bolts, nuts, screws and other fasteners.

The scope also includes all hardware for assembly and installation of the lockers and locker banks that are imported with or shipped, invoiced or sold with the imported locker or locker system.

Excluded from the scope are wire mesh lockers. Wire mesh lockers are those with each of the following characteristics:

- (1) at least three sides, including the door, made from wire mesh;
- (2) the width and depth each exceed 25 inches; and
- (3) the height exceeds 90 inches.

Also excluded are lockers with bodies made entirely of plastic, wood or any nonmetallic material.

Also excluded are exchange lockers with multiple individual locking doors mounted on one master locking door to access multiple units. Excluded exchange lockers have multiple individual storage spaces, typically arranged in tiers, with access doors for each of the multiple individual storage space mounted on a single frame that can be swung open to allow access to all of the individual storage spaces at once. For example, uniform or garment exchange lockers are designed for the distinct function of securely and hygienically exchanging clean and soiled uniforms. Thus, excluded exchange lockers are a multi-access point locker whereas covered lockers are a single access point locker for personal storage.

Also excluded are metal lockers that are imported with an installed electronic, internet-enabled locking device that permits communication or connection between the locker's locking device and other internet connected devices.

Also excluded are hardware and accessories for assembly and installation of the lockers, locker banks and storage systems that are separately imported in bulk and are not incorporated into a locker, locker system or knocked down kit at the time of importation. Such excluded hardware and accessories include but are not limited to bulk imported rivets, nuts, bolts, hinges, door handles, locks, door/frame latching components, and coat hooks. Accessories of sheet metal,

including but not limited to end panels, bases, dividers and sloping tops, are not excluded accessories.

The subject certain metal lockers are classified under Harmonized Tariff Schedule of the United States (HTSUS) subheading 9403.20.0078. Parts of subject certain metal lockers are classified under HTS subheading 9403.90.8041. While HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of the investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

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- V. Diversification of China's Economy
- VI. Subsidies Valuation
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